

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/1/2024
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PHOENIX FASHION, INC.,

Plaintiff,

-v-

SAADIA GROUP LLC; NEW YORK & COMPANY
STORES, INC.; FASHION TO FIGURE ECOMM LLC;
LORD & TAYLOR ECOMM LLC; YAKOUB N
SAADIA a/k/a YAKOUB SAADIA a/k/a YAKAOUB
SAADIA a/k/a YAKOUB SAABIA a/k/a JACK
SAADIA; NY AND CO ECOMM LLC; LETOTE
ECOMM LLC; AQUATALIA ECOMM LLC; FASHION
TO FIGURE IP LLC; RTW RETAILWINDS
ACQUISITION LLC; LORD & TAYLOR
ACQUISITIONS LLC; LORD & TAYLOR IP LLC;
LETOTE IP LLC; AQUATALIA IP LLC; 501 JERSEY
AVENUE LLC; BROOK WAREHOUSING AND
DISTRIBUTION LLC; 1735 JERSEY AVENUE
PROPERTY LLC; SAADIA DISTRIBUTION LLC;
STONY BATTERY RD PROPERTY OWNER LLC;
1000 STONEY BATTERY ROAD, LLC,

Defendants.

23-cv-5788 (LJL)

ORDER

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LEWIS J. LIMAN, United States District Judge:

On August 22, 2024, Defendants Jack Saadia, New York & Company Stores, Inc., Fashion to Figure EComm LLC, and Lord and Taylor Ecomm LLC (the “Moving Defendants”) moved to set aside the clerk’s certificates of default issued against them. Dkt. No. 215. The Court heard from the parties at a telephonic conference on September 16, 2024, and made an oral ruling on the motion, memorialized in an order of the same date. Dkt. No. 221. As more fully set out in that order, the Court held that although the default was not willful, the Moving

Defendants had not asserted a meritorious defense as to the vast majority of the amount sought, and “vacating the entry of default would result in undue prejudice to Plaintiff absent security that Moving Defendants’ assets will not be dissipated due to their repeated delay.” *Id.* at 3. The Court therefore stated that it would vacate the entry of default “on condition that those defendants post a bond in the amount of \$3,022,209 by September 27, 2024.” *Id.* It stated that “[i]f those defendants are unable to post the bond by that time, they may request an extension from the Court.” *Id.*

The Moving Defendants have not posted a bond as of October 1, 2024. The Moving Defendants have not requested an extension or communicated with the Court in any way since the conference on September 16, 2024. Defendants, including the Moving Defendants, have a pattern of untimely responses in this action. *See id.* at 2. The Moving Defendants were aware of the deadline for posting a bond and chose not to raise any issues with the Court before that deadline. Further delay risks further prejudice to Plaintiff.

Therefore, given that the bond has not been posted and the deadline has passed, the Moving Defendants’ motion to set aside the certificates of default is DENIED. The parties are ordered to appear for a telephonic conference regarding Plaintiff’s motion for default judgment, Dkt. No. 210, on October 9, 2024, at 2:00 p.m. Parties are reminded to dial into the Court’s teleconference line at 888-251-2909 and use access code 2123101.

The Clerk of Court is respectfully directed to close Dkt. No. 215.

SO ORDERED.

Dated: October 1, 2024
New York, New York



LEWIS J. LIMAN
United States District Judge